

IN THE SUPREME COURT OF THE STATE OF DELAWARE

STEPHON SAMPLE,	§	
	§	No. 99, 2009
Defendant Below,	§	
Appellant,	§	Court Below—Superior Court
	§	of the State of Delaware in and
v.	§	for Kent County
	§	
STATE OF DELAWARE,	§	
	§	
Plaintiff Below,	§	Def. ID No. 0405022601
Appellee.	§	

Submitted: March 24, 2009

Decided: June 5, 2009

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

**ORDER**

This 5<sup>th</sup> day of June 2009, upon consideration of appellant's opening brief and appellee's motion to affirm, it appears to the Court that:

(1) This appeal is from the Superior Court's denial of appellant's motion for disqualification that appellant filed in connection with his second motion for postconviction relief. Appellant's postconviction motion and related motions are pending in the Superior Court.

(2) Under the Delaware Constitution, only a final judgment may be reviewed by this Court in a criminal case.<sup>1</sup> In appellant's case, the order of the Superior Court denying his motion for disqualification is an interlocutory

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<sup>1</sup> Del. Const. art. IV, § 11(1)(b); *State v. Cooley*, 430 A.2d 789, 791 (Del. 1981).

order and not a final criminal judgment.<sup>2</sup> As a result, the appeal fails to invoke the jurisdiction of this Court.

NOW, THEREFORE, IT IS ORDERED, *sua sponte*, that this appeal is DISMISSED pursuant to Supreme Court Rule 29(c).<sup>3</sup>

BY THE COURT:

/s/ Randy J. Holland  
Justice

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<sup>2</sup> *Paskins v. State*, 2002 WL 1733317 (Del. Supr.); *Sanders v. State*, 1998 WL 255390 (Del. Supr.); *Crist v. State*, 1997 WL 45073 (Del. Supr.).

<sup>3</sup> See Del. Supr. Ct. R. 29(c) (providing in pertinent part that the Court may dismiss *sua sponte* an appeal from any interlocutory order when the appeal manifestly fails on its face to invoke the jurisdiction of the Court and where the Court concludes, in the exercise of its discretion, that the giving of notice would serve no meaningful purpose and that any response would be of no avail).